

REMARKS

This paper is responsive to the Final Office Action dated May 9, 2005, having a shortened statutory period expiring on August 9, 2005.

Claims 1-6, 11-16, 20-23 and 31-37 were previously pending in the application

Claims 1-6, 11-16, 20-23 and 31-37 were rejected.

No claims are added or canceled in this paper. Claims 11-15 and 23 have been amended to more clearly indicate the claimed subject matter. The amendments add no new matter, and are fully supported by the originally-filed specification.

Accordingly, claims 1-6, 11-16, 20-23 and 31-37 remain pending.

Claims 11-16, 21-23, 32, and 33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,666,265 issued to Lutz et al. ("*Lutz*"). Claims 1-6, 20, 31, and 34-37 stand rejected under § 103(a) as being unpatentable over *Lutz* in view of U.S. Patent No. 5,292,312 issued to Delk et al. ("*Delk*"). While not conceding that the Examiner's cited references qualify as prior art, but instead to expedite prosecution, Applicant has chosen respectfully to address the rejection in the Office Action as follows. Applicant reserves the right, for example in a continuing application, to establish that the Examiner's cited references do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Applicant respectfully submits that the claims are patentable and respectfully requests reconsideration of the pending rejections in view of the amendments and remarks presented herein.

The Rejections under 35 U.S.C. § 102(b)

Claims 11-16, 21-23, 32, and 33 stand rejected under § 102(b) as being anticipated by or, in the alternative, under § 103(a) as obvious over *Lutz*. Applicant respectfully submits that the *Lutz* does not disclose a number of limitations of the claims.

For example, Applicant's amended independent claim 11 is directed to a method of managing cable, and includes a limitation of supporting one or more cables with a cable fastener. The cable fastener "contains a strap on which are mounted a first plurality of one type of hook and loop mechanisms." This limitation specifies that one, and no more, type of hook and loop mechanisms are included on the cable fastener. This limitation is not disclosed in *Lutz*.

Lutz presents systems that use VELCRO cord wraps 280 that include elongate strips 282. *Lutz* at col. 8, lines 43-62; FIGS. 7a, 7b, 8. The elongate strips 282 in *Lutz*, however, contain *more than one type* of VELCRO. "The elongate strip 282 . . . provides a covering of female VELCRO 283 on one side and male VELCRO 284 on the other." Accordingly, the VELCRO on one portion of the elongate strip 282 may engage another portion of the elongate strip 282. This capability results from the two types of VELCRO is illustrated in FIG. 7b. An elongate strip 282 is illustrated as being rolled up onto itself around cords 507. *Id.* at FIG. 7b. "In operation, one end of the elongate strip 282 is wrapped around the cables and back on itself with the female material on the outside." *Id.* at col. 8, lines 53-55. These observations make clear that the *Lutz* system uses elongated strips that have two different types of VELCRO ("male" and "female"). *Lutz* does not, therefore, describe, teach, or suggest the use of a cable fastener with one--and no more--type of hook and loop mechanism.

For at least this reason, *Lutz* does not disclose each limitation of independent claim 11. Accordingly, independent claim 11 and all dependent claims depending therefrom are allowable under § 102(b).

As another example, Applicant's amended independent claim 23 is directed to an apparatus with limitations of a means for supporting one or more cables and a means for releasably engaging a cable fastener to a substrate. The means for supporting one or more cables includes a cable fastener. The means for releasably engaging the cable fastener to a substrate is configured not to releasably engage with any portion of the cable fastener. These limitations are not disclosed in *Lutz*.

The two types of VELCRO on the *Lutz* cord wraps 280 releasably secure the cord wraps to the patch 281 (which the Office Action identifies as a substrate). However, this VELCRO *is* configured to engage with a portion of the cord wraps 280: the male VELCRO on the *Lutz* cord

wraps 280 may engage with any portion of the cord wraps that have female VELCRO, and vice-versa. *Lutz* at col. 8, lines 43-62; FIGS. 7a, 7b, 8. Thus, the VELCRO that connects the cord wraps with the patch in *Lutz* also connects with other portions of the cord wraps. *Lutz* does not present a cable fastener and “means for releasably engaging the cable fastener to a substrate” that is “configured not to releasably engage with any portion of the cable fastener.”

For at least this reason, *Lutz* does not disclose each limitation of independent claim 23. Accordingly, independent claim 23 and all dependent claims depending therefrom are also allowable under § 102(b).

In view of these remarks, Applicant submits that claims 11-16, 21-23, 32, and 33 are allowable. Accordingly, Applicant respectfully requests that the rejections thereto under § 102(b) (or in the alternative, under § 103(a)), be withdrawn.

The Rejections under 35 U.S.C. § 103(a)

Claims 1-6, 20, 31, and 34-37 stand rejected under § 103(a) as being unpatentable over *Lutz* in view of *Delk*. Appellant respectfully submits that the Office Action fails to state a *prima facie* case of obviousness under § 103(a).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure.

MPEP § 706.02(j) (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, “[t]he initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done.” *Id.* (citing *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985)).

The Office Action proposes modifying the system of *Lutz* in view of *Delk*, with the suggestion for combining these references being that cable fasteners in each “are art-recognized

equivalents at the time [of] the invention both being means of holding cables/tubular members to substrates.” Office Action at pp. 4-5.

Applicant respectfully submits that the proposed suggestion for combining the references is improper, for at least three reasons. First, the proposed suggestion for making the combination of references is not based on any teaching or observation in the cited references, as would be required under § 103(a). The Office Action does not cite any section of *Lutz* that would lead a person having ordinary skill in the art to combine the reference with *Delk*. Further, Applicant sees no suggestion in *Lutz* that would lead a person having ordinary skill in the art to combine the reference with *Delk*. Additionally, Applicant sees no suggestion in *Delk* that would lead a person having ordinary skill in the art to combine the reference with *Lutz*. Accordingly, Applicant submits that there is no motivation in the cited references for making the combination proposed in the Office Action.

Second, a person having ordinary skill in the art would not turn from *Lutz* to *Delk*, because *Lutz* does not state or suggest any need for additional technology or tools that would provide motivation for a skilled artisan to turn to another reference. The elongate strips 282 in *Lutz* are sufficient and adequate tools for the activities and functions set forth in *Lutz*. The purpose of the *Lutz* system is to provide “a portable workstation housing that supports, protects, electrically charges, and organizes a portable computer, associated peripheral equipment and devices and data and power cables.” *Lutz* at col. 1, line 64-col. 2, line 1. The elongate strips 282 in *Lutz* “encircl[e] a coiled or folded cable or wire,” and “promote safety and organization by maintaining the coiled or folded cable configuration.” These goals of *Lutz* are fully met by the elongate strips 282 in *Lutz*. Turning to another reference is not needed after a reading of *Lutz* in order for a person having skill in the art to meet the stated goals of *Lutz*. Accordingly, a person having ordinary skill in the art would have no motivation to combine *Delk* with *Lutz*.

Third, even if *Lutz* is read in view of *Delk*, the teachings of *Delk* do not add helpfully to the teachings of *Lutz*. Indeed, augmenting the *Lutz* system with the *Delk* teachings, as proposed, would degrade the operation of the *Lutz* system. *Delk* discloses a VELCRO strap 30 that is generally a long thin strip, wider at one end than at another end. A transition zone in the strap 30 has a rounded slot 37 between the wide and narrow portions of the strap. *Delk* at col. 6, line 54—col. 7, line 10; FIGS. 5 and 6. The Office Action suggests modifying the *Lutz* system to

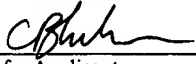
use a *Delk*-style strap as a cord wrap. Such a modification, however, would not be an improvement to the functionality of the *Lutz* system, which meets its desired goals without such modification. Such a modification would not add any helpful advantage to the *Lutz* system. Indeed, this modification may somewhat impair the *Lutz* system, by employing a cord wrap that would not match itself in width as it is wrapped around cables, and would have reduced mechanical stability with the sides of a wide end unnecessarily overhanging the sides of a narrow end. Accordingly, a person having skill in the art would not find it helpful to combine the cited references to make the proposed modification.

Thus, *Lutz* and *Delk* are not properly combined under § 103(a) because the cited references do not themselves suggest the combination, and further because *Lutz* does not have any need for an augmentation to be found in other references, and also because even if *Lutz* is read in view of *Delk*, the teachings of *Delk* do not add helpfully to, and may detract from, the teachings of *Lutz*. Accordingly, Applicant request that the rejections of claims 1-6, 20, 31, and 34-37 under § 103(a) based on *Lutz* and *Delk* be withdrawn.


CONCLUSION

Applicant submits that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on July 11, 2005.

 2005 July 11
Attorney for Applicant Date of Signature

Respectfully submitted,


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